



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0169]

RIN 1625-AA08

Special Local Regulation for Marine Events, Chesapeake Bay  
Workboat Race, Back River, Messick Point; Poquoson,  
Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish a special local regulation during the Chesapeake Bay Workboat Race, a series of boat races to be held on the waters of Back River, Poquoson, Virginia on June 24, 2012. This event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of the Back River. This regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Back River, Messick Point, Poquoson, Virginia during the event.

DATES: Comments and related material must be received by

the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0169 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail If you have questions on this temporary rule, call or e-mail LCDR Christopher O'Neal, Waterways Management Division Chief, Sector Hampton

Roads, Coast Guard; telephone 757-668-5581, e-mail [Christopher.A.ONeal@uscg.mil](mailto:Christopher.A.ONeal@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-**0169**), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as

having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0169) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0169) in the "SEARCH" box and click "SEARCH." Click

on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

For information on facilities or services for individuals with disabilities or to request special

assistance at the public meeting, contact LCDR Christopher O'Neal at the telephone number or e-mail address indicated under the FOR FURTHER INFORMATION CONTACT section of this notice.

#### Basis and Purpose

Marine events are frequently held on the navigable waters within the boundary of Fifth Coast Guard District. The water activities that typically comprise marine events include sailing regattas, power boat races, swim races and holiday parades. For a description of the geographical area of each Coast Guard Sector - Captain of the Port Zone, please see 33 CFR 3.25.

This regulation proposes to add an enforcement period of a new special local regulation for one marine event within Fifth Coast Guard District.

On June 24, 2012, the Chesapeake Bay Workboat Race Committee will sponsor the "2012 Chesapeake Bay Workboat Races" on the waters of Back River. The event will consist of approximately 75 powerboats conducting high-speed competitive races on the waters of Back River, Messick Point, Poquoson, VA. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard

will temporarily restrict vessel traffic in the event area during the races. The regulation at 33 CFR 100.501 would be enforced for the duration of the event. Under the provisions of 33 CFR 100.501, from 11 a.m. to 5:00 p.m. on June 24, 2012, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

#### Discussion of Proposed Rule

The Coast Guard is establishing a temporary special local regulation on specified waters of the Back River, Messick Point in Poquoson, Virginia. The regulated area will be established in the interest of public safety during the "Chesapeake Bay Workboat Race", and will be enforced from 11:00 a.m. to 5:00 p.m. on June 24, 2012. The Coast Guard, at its discretion, when practical, will allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

This regulation would establish an enforcement location to include all waters of the Back River, Poquoson, Virginia, bounded to the north by a line drawn along latitude 37°06'30" N, bounded to the south by a line drawn along latitude 37°16'15" N, bounded to the east by a line

drawn along longitude 076°18'52" W and bounded on the west by a line drawn along longitude 076°19'30" W.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this rule prevents traffic from transiting a portion of certain waterways during specified times, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community



via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases, vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit this section of the Back River during the event.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and

that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it. This regulation will not have a significant impact on a substantial number of small entities because: (i) it will be enforced only for a short period of time (six hours); (ii) vessels may be granted the opportunity to transit the safety zone during the period of enforcement if the Patrol Commander deems it safe to do so; (iii) vessels may transit around the safety zone; and (iv) before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Christopher O'Neal. The Coast Guard will not retaliate against small entities that question or complain

about this proposed rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure,

we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why

using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the

navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. In § 100.501, Table to § 100.501, add temporary line No. 26 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

\* \* \* \* \*

Table To § 100.501.-All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

Coast Guard Sector Hampton Roads - COTP Zone				
No.	Date	Event	Sponsor	Location
* 26.	* June 24, 2012 11 Am to 5 pm.	* 2012 Chesapeake Bay Workboat Race	* Chesapeake Bay Workboat Race Committee	* * * The regulated area includes all waters of the Back River, Poquoson, Virginia, bounded to the north by a line drawn along latitude 37°06'30" N, bounded to the south by a line drawn along latitude 37°16'15" N, bounded to the east by a line drawn along longitude 076°18'52" W and bounded on the west by a line drawn along longitude 076°19'30" W. All coordinates reference Datum NAD 1983.

\* \* \* \* \*

Dated: \_March 13, 2012\_\_\_\_\_

Mark S. Ogle  
Captain, U.S. Coast Guard  
Captain of the Port Hampton Roads

[FR Doc. 2012-7790 Filed 03/30/2012 at 8:45 am; Publication Date: 04/02/2012]